IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

AMERICAN WASTE MANAGEMENT AND RECYCLING, LLC. Plaintiff, v. CEMEX PUERTO RICO; CANOPY ECOTERRA CORP.; XYZ INSURANCE COMPANIES Defendants.	Civil No. 07-01658-JAF Breach of contract; collection of moneys damages. Jury trial demanded.

MOTION REQUESTING RECONSIDERATION OF ORDER REGARDING SANCTIONS AND COMPLIANCE

TO THE HONORABLE COURT:

Defendant CEMEX PUERTO RICO (hereinafter, CEMEX), through the undersigned attorneys, respectfully states and prays as follows:

1. On Friday, September 28, 2007, at 3:28 pm, Plaintiff filed a motion purportedly informing the court of a violation by Came of this Court's order of September 24, 2007. Doc. 43.

2. On Monday, October 1, 2007, before Cemex had a chance to file a response to plaintiff's request, the court granted the order. Doc. 46. Cemex respectfully requests the court to reconsider its order because it is based on incomplete information and false statements

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presented by plaintiff. Furthermore, the order was issued without considering Cemex's efforts at complying with the order, because Cemex had not yet filed any response to the motion. See Doc. 53.

3. Since receiving the September 24, 2007 order, Cemex has been actively seeking a way of reasonably complying with the court's order, without having to make further filings before the court. After several incidents at the plant, where different persons showed up to pick up different pieces of equipment without prior coordination, and upon Cemex's initiative, on October 1, 2007, the parties met to agree on reasonable terms to comply with the order, including coordination of work, identify the persons in charge of representing each party, and otherwise organizing the compliance with the order. Cemex agrees that preservation and orderly removal are required steps. However, to allow any party to show up waiving a copy of the order to pick up materials will not facilitate proceedings, but will result in complications contrary to the purposes of the court's order.

4. On Monday, October 1, 2007, the parties met to coordinate discovery and compliance with the order. The agreed-to procedure appears in exhibit 1 to this motion.

5. As the court can appreciate, unless the order is complied with in an orderly manner, the result will be a multiplication of complications.

6. The Cemex plant is very large, complex and there are security concerns regarding the plant and the persons entering the plant. Compliance with the order requires notice of the equipment to be removed, so that Cemex is aware of the persons who will enter the plant and of the equipment to be removed. Compliance with the order requires coordination of the timing of the removal or inspection, so that Cemex may coordinate the events with the operations of the plant. Compliance with the order requires certainty that the persons carrying out the different tasks are indeed the persons with authority to act, so as to avoid later controversies regarding removal of materials or equipment. Unless these steps are coordinated through counsel, plaintiffs may continue to create artificial controversies where none exist.

7. Counsel for all parties agreed to terms consonant with these concerns, but Plaintiff reneged.

8. Sanctions are not warranted in this case, because Cemex has acted only in furtherance of complying with the order and its duties as party to seek the just speedy and inexpensive determination of this action. The Court may

measure Cemex's conduct by the terms of the proposed protocol plaintiff reneged, Exhibit 1 to this motion.

WHEREFORE, CEMEX Puerto Rico prays this Court to reconsider its order granting docket No. 43 and deny plaintiff's frivolous motion regarding violation of court order.

I HEREBY CERTIFY that today October 2, 2007, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system which will send notification of such filing to all counsel of record.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 2st day of October, 2007.

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